

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

IN RE:)
)
BETTY L. McCLANAHAN,) Case No. 16-62232
)
Debtor)

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

The United States of America, on behalf of the Internal Revenue Service (the “IRS”),
objects to confirmation of Debtor’s Chapter 13 plan on the following grounds:

1. On November 3, 2016, Debtor filed a petition for relief under Chapter 13 of the Bankruptcy Code.
2. The IRS has a claim for estimated pre-petition tax liability in the amount of \$254,272.19. Of this amount, \$213,663.55 is claimed as secure by notice of Federal tax lien; \$15,980.68 is claimed as an unsecured priority claim, and \$24,627.96 is claimed as an unsecured general claim. *See* Claim No. 2-1, filed November 16, 2016, which has not been the subject of a previous objection to claim.
3. The IRS has no record that Debtor, using any filing status, filed a U.S. Individual Income Tax Return (Form 1040) for the 2010, 2011, 2012, 2013, 2014 and 2015 tax periods.
4. Without receipt of the past due returns from the Debtor, and a reasonable opportunity to examine the returns, the IRS cannot determine the correct amount of its claim. This has forced the United States to estimate the Debtor's pre-petition priority tax liability for the tax periods set out above.

5. The Debtor fails to provide adequately for the secured tax claim of the IRS, listing it at paragraph 5.A. of the plan. The IRS does not agree to this treatment of its claim. The Debtor's pre-petition tax liability is not a regular contract payment. Further, the tax lien attaches to all of Debtor's right, title and interest to property. 26 U.S.C. § 6321. The plan must include the IRS' \$213,663.55 secured claim at paragraph 3.D. of the plan and provide for full payment of the secured tax claim with interest at 4 (four) percent as required by 11 U.S.C. § 1325(a)(5) and § 511.5.

6. The Debtor's plan, as proposed, provides for payment to the Service of its priority claim, estimated to be \$15,980.68. However, until the missing tax returns are filed, which will allow the Service to file an amended proof of claim reflecting the Debtor's true pre-petition tax liabilities, it is not possible to determine if the plan is adequately funded to provide for the full payment of all claims entitled to priority under section 507 of the Bankruptcy Code, in compliance with 11 U.S.C. §§ 1322(a)(2) and 1325(a)(1). Thus, the plan will remain objectionable, and cannot be confirmed. The tax returns should be filed with:

Internal Revenue Service
Insolvency Units
400 N. 8th Street, Box 76
Richmond, VA 23219

7. The plan proposes at paragraph 11 "The principle source of funding for this plan will be the sale of some the Debtor's real estate". The plan also proposes to pay an unspecified amount to the IRS upon the sale of properties. The plan fails to provide a time limitation for the sale and, thus, the plan is too speculative. The IRS does not agree to this proposal and, without the IRS' agreement, the plan violates 11 U.S.C. § 1322(a)(2).

WHEREFORE, the IRS objects to confirmation of Debtor's Chapter 13 Plan.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this 28th day of December, 2016, electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Douglas E. Little, Esq.
Herbert L. Beskin, Esq.

and have mailed by first class mail, postage paid, a copy of the document to the following non-CM/ECF participant:

Betty L. McClanahan
P.O. Box 230
Keswick, VA 22947

/s/ Kartic Padmanabhan
Kartic Padmanabhan
Assistant United States Attorney